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SHORT HISTORY OF THE FIRST HUNGARIAN CITIZENSHIP ACT

Summary: *The first regulation of Hungarian citizenship according to the contemporary constitutional reforms and legal practice only took place in 1879. Despite the errors of the law, it is a major milestone in Hungarian citizenship law, since it also incorporated in its system the cases of acquisition and loss of citizenship. The law contains detailed provisions on how the legal relationship between the citizen and the state could be established and terminated. The objective of the law was to make the system of citizenship clear and transparent.*

This citizenship law could be regarded as one that was able to withstand the test of time, since it remained in effect, with minor amendments, until 1948. The first such amendment was Act 4 of 1886 on the re-naturalization of people resettling in large numbers, which was followed by Act 17 of 1922, aimed at the settling of the unique status of citizenship that was the result of the Trianon Peace Treaty. A further significant change was also included in Act 13 of 1939, which provided that those obtaining citizenship in another country would automatically lose their Hungarian citizenship.

In later citizenship laws (Act 60 of 1948, Act 5 of 1957, Act 55 of 1993), significant changes were introduced both in the field of acquisition and loss of citizenship, as a consequence of which more grounds were given to the expression of individual will and less room was allowed for the intervention of the state.

Key words: *Hungary, citizenship, Trianon Peace Treaty, First Hungarian Citizenship Act*

The Acquisition of Hungarian Citizenship.

In Hungarian constitutional history, the system of citizenship was based on the right of lineage, which means that children inherited their fathers' citizenship. The majority of Hungarian citizens in the second half of the 19th century were such natural born Hungarians, who acquired their citizenship by way of lineage.

The first citizenship law (Act 50 of 1879) defined the following cases whereby Hungarian citizenship could be acquired: descent, legitimization, naturalization and marriage.¹ This list of the law is not exemplificative, but taxative; in other words, there were no other ways of obtaining citizenship.² According to some researchers, additional ways also included retrieving and acquiring citizenship on the basis of “an old right” (or “implicitly”).³ After the framing of the law, the number of legal titles further increased. Act 4 of 1886 introduced the institution of re-admission for the large number of those re-settling in Hungary.⁴ Hungarian citizenship could therefore be acquired in a direct and an indirect

¹ FERENCZY, Ferenc: *Magyar állampolgársági jog* [Hungarian citizenship law]. Gyoma, 1930. 57., Emanuel MILNER: *Studien zum Österreichischen Staatsrechte I. Die Österreichische Staatsbürgerschaft und der Gesetzartikel L: 1879 über den Erwerb und Verlust der Ungarischen Staatsbürgerschaft*. Tübingen, 1880. 47–48. According to the Civil Code of 1811, Austrian citizenship could be acquired by way of marriage, legitimization, descent, naturalization and entering civil service. The last case was a debated one, since the above mentioned law also declared that only Austrian citizens could undertake public office. EÖTTEVÉNYI Nagy, Olivér: *Osztórák közjog* [Austrian public law]. Budapest, 1913. 46–47., CSIZMADIA, Andor: *A magyar állampolgársági jog fejlődése* [The development of Hungarian citizenship law]. *Állam- és Közigazgatás*, 1969. 1084–1085., FERDINÁNDY, Gejza: *Magyarország közjoga (Alkotmányjog)* [Public law of Hungary (Constitutional law)]. Budapest, 1902. 238., LADIK, Gusztáv: *Közigazgatásunk fejlődése 1867. óta* [The development of Hungarian public administration since 1867]. Budapest, 1933. 11. ZLINSZKY, Imre: *A magyar magánjog mai érvényben különös tekintettel a gyakorlat igényére* [Hungarian private law in effect today, with special attention to the demands of practice]. Budapest, 1894. 50–51., PONGRÁCZ, Jenő: *Magyar állampolgárság és községi illetőség. Törvények, rendeletek, elvi határozatok, díjak és illetékek, magyarázat, iratminták* [Hungarian citizenship and township residence. Laws, decrees, principle decisions, fees and dues, explanation, sample documents]. Budapest, 1938. passim.

² We must also note, however, that the law nevertheless also contained some methods of acquisition of citizenship, which were not mentioned in Section 3 of Act 50 of 1879. These were the following: the “right of land” (*jus soli*) and favored re-naturalization. FERENCZY, Ferenc: *ibid.* 57.

³ BERÉNYI, Sándor – TARJÁN, Nándor: *A magyar állampolgárság megszerzése és elvesztése (honosság, letelepülés, kivándorlás, útlevéltügy). Az 1879. évi L. törvény-cikk és az ezzel kapcsolatos törvények s rendeletek gyűjteménye és magyarázata* [The acquisition and loss of Hungarian citizenship (national status, settling, emigration, passport regulations). A collection and explanation of Act 50 of 1879, as well as related laws and regulations. Budapest, 1905. 14., FERENCZY, Ferenc: *ibid.* 57.

⁴ FERENCZY, Ferenc: *ibid.* 58.

way. In the first group the only possibility was birth. These citizens could be called “native Hungarians” (*Hungari nativi*).⁵ In the second group belong the received or naturalized Hungarians (*Hungari recepti*), who obtained citizenship by way of legalisation, naturalisation or marriage.⁶

The voluntary intention originating in one’s own resolve, which was among the objectives of the law, was fully asserted in case of naturalization only.⁷

According to Hungarian citizenship law, entering state service did not automatically result in obtaining citizenship. The only exception was when the moving into the country was for the purpose of settling down permanently and the acquisition of residence in a township was already under way.⁸

The ministerial justification of the law specifically mentions the German regulations of 1870, with which the bill of 1879 was drafted in harmony. The German citizenship law defined the legal titles of acquiring citizenship in a way that was identical with the Hungarian law

Descent

Anybody who was a legitimate child of a Hungarian father, or who was born to a mother of Hungarian citizenship was also a Hungarian citizen.⁹ This rule was also applied if the place of birth was abroad.¹⁰ This provision of law was in effect even before the passing of the citizenship law, since such people was called the “sons of the home country” (*nativi Hungari, patriae filii*).¹¹ If a man of Hungarian citizenship married a foreign woman, their children were Hungarian citizens, since the wife lost her original citizenship by reason of the marriage. The children would also be Hungarian citizens if the mother was a Hungarian citizen and the father a foreigner. Children born out of wedlock by a foreign mother would also be considered as natural born Hungarian citizens if

⁵ ZLINSZKY, Imre: *ibid.* 50–51.

⁶ *Ibid.* 51.

⁷ In case of birth, it is the transfer of an old right and not the obtaining of a new one, which proves that the child is not an acquirer of rights, only the inheritor of an already existing right. FERENCZY, Ferenc: *ibid.* 58.

⁸ The practical implementation of the law, however, raised a number of issues with regard to which several supplementary regulations had to be issued by the competent ministries. Decree of the Minister of the Interior no. 24.553/1888. in.: FERENCZY, Ferenc: *ibid.* 153.

⁹ FERDINÁNDY, Gejza: *ibid.* 238–239., BALOGH, Arthur: *Politikai Jegyzetek* [Political notes]. Budapest, 1905. 91., FERENCZY, Ferenc: *ibid.* 31.

¹⁰ KORBULY, Imre: *Magyarország közzjoga illetőleg a magyar államjog rendszere* [Hungarian public law and the system of Hungarian state law]. Budapest, 1884. 138., KISTELEKI, Károly: *Az állampolgárság a dualizmus idején* [Citizenship at the Time of the Dual Monarchy]. *Állam és Jogtudomány*, 1996–1997. 50., FERENCZY, Ferenc: *ibid.* 31–32.

¹¹ Ministry of the Interior official communication no. 33.325/1888. in.: FERENCZY, Ferenc: *ibid.* 156.

they were legitimized subsequently. Legitimization (marriage and royal legitimization) was basically the subsequent recognition of citizenship based on birth.¹²

According to our constitutional law, if somebody lost his or her Hungarian citizenship, this would never be automatically regained. In such cases, citizenship would have to be re-acquired.¹³

There were some states (England, Denmark, Portugal, etc.) which recognized children born on their territories as their own citizens on the basis of the territorial principle (*jus soli*), regardless of what citizenship their parents had. The Hungarian citizenship law only allowed this principle to be asserted in some extraordinary cases. Such a case was, for example, if a child was born on the territory of the country, but nothing was known of the citizenship of his or her parents, and therefore, lineage could not be used to determine the actual citizenship of the child.¹⁴ The same principle had to be used in case of foundlings whose parents were not known at all.¹⁵ In both cases it was presumed that the parents were Hungarian citizens since the birth took place on the territory of the Hungarian state. Such presumption, however, could be disproved.¹⁶

Marriage

Citizenship could be obtained by way of marriage¹⁷ if a foreign woman married a man of Hungarian citizenship. In such cases the change in the marital status of the foreign woman ipso facto resulted in the change of her citizenship.¹⁸ Her new citizenship acquired by way of marriage was not subsequently lost even if she was widowed or divorced.¹⁹ Naturally, only legally concluded marriages had such legal consequences, since invalid (void or contestable) marriages, according to Section 37 of the law, only had such an effect until the invalidity of the marriage was pronounced by a final judgment of the court.²⁰

¹² FERENCZY, Ferenc: *ibid.* 32.

¹³ *Ibid.* 32., Ministry of the Interior Decree no. 20.723/1896 in.: *Ibid.* 175.

¹⁴ KORBULY, Imre: *ibid.* 140., FERENCZY, Ferenc: *ibid.* 34.

¹⁵ KORBULY, Imre: *ibid.* 140., NAGY, Ernő: *Magyarország közjoga*. [Hungarian public law]. Budapest, 1907. 109.

¹⁶ FERENCZY, Ferenc: *ibid.* 34–35., Ministry of the Interior Decree no. 20.723/1869. in.: *Ibid.* 175.

¹⁷ FERDINÁNDY, Gejza: *ibid.* 239. The original Hungarian expression “férjhez megy” can only be applied to women. The author maintains that, apart from being more genuinely Hungarian, this expression better expresses the fact that only a woman was able to acquire Hungarian citizenship this way.

¹⁸ *Ibid.* 239.

¹⁹ FERENCZY, Ferenc: *ibid.* 86., TAR, József: *Állampolgárság* [Citizenship]. Debrecen, 1941. 25.

²⁰ BERÉNYI, Sándor – TARJÁN, Nándor: *ibid.* 109–111.

*Naturalization*²¹

Foreign nationals could acquire Hungarian citizenship by a deed of naturalization or by a royal diploma, as a result of which both they and their descendants would become Hungarian citizens. The institution of acquisition of citizenship by way of a deed of naturalization was also known before 1879, since the Hungarian royal Minister of the interior issued such documents from 1867, which also remained in effect after the entry into force of the citizenship law of 1879.²²

A foreigner who had not acquired citizenship by way of simple naturalization²³ or by way of a deed of naturalization issued after 1867 could only acquire Hungarian citizenship after January 8, 1880, by way of naturalization under the new law, even if had continuously lived on the territory of the country before and exercised the rights of Hungarian citizens.

Hungarian constitutional law recognized two methods of naturalization: simple naturalization and special naturalization.²⁴ The emphasis in both cases was on the definite expression of will and acting according to prescribed forms, and therefore, nobody could become a Hungarian citizen implicitly neither in the absence of certain basic conditions.

The following conditions had to be met for simple naturalization. The applicant had to have unlimited capacity of action, or in the absence of such capacity, his or her guardian's consent had to be obtained. The applicant also had to either be a resident of a local township, or at least the procedure for such purpose had to have been initiated. Communities could not be forced to hold out the prospect of admittance to the township in case of naturalization.²⁵ The applicant had to have lived in the territory of the Hungarian state for an uninterrupted period of five years. He had to have been of impeccable con-

²¹ FERDINÁNDY Gejza, on the other hand, used the expression "honfűsítés" together with "honosítás." FERDINÁNDY, Gejza: *ibid.* 238–239.

²² FERENCZY, Ferenc: *ibid.* 35. Date of coming into force: January 5, 1880.

²³ The provision was in effect in Hungary whereby if an Austrian citizen immigrated to Hungary in the 1840's or 1850's, then he could obtain Hungarian citizenship by way of simple naturalization. In case of returning to his original country, however, this acquired right was lost. The royal decree no. 10.661 of 1814 was applied whereby citizenship could be acquired implicitly by uninterrupted and proved residence in the country for ten years. Ministry of the Interior registry no. 553/1887 in.: FERENCZY, Ferenc: *ibid.* 153–154. The same is set forth in Ministry of the Interior Decree no. 2194/1886. in.: *Ibid.* 155.

²⁴ BALOGH Arthur differentiated between them on the basis of the legal consequences effected by naturalization, and accordingly differentiated between naturalization of smaller and larger legal effect, similarly to Belgians. BALOGH, Arthur: *ibid.* 91–92.

²⁵ Ministry of the Interior decree no. 115.702/1904. in.: FERENCZY, Ferenc: *ibid.* 167. The connection between naturalization and township residence is further regulated by Ministry of the Interior decree no. 8497/1905. in.: FERENCZY, Ferenc: *ibid.* 167–168.

duct, had to have an income or wealth sufficient for maintaining himself and his family, and also had to have been on the list of taxpayers for at least five years.²⁶ The law, on the other hand, had no provisions for the examination of the applicant's emotional attachment as to whether he was to become a member of the Hungarian state not only materially and physically, but also morally and spiritually.²⁷ In addition, the law did not require a physical or mental examination either.²⁸

According to the above conditions, the applicant had to have either unlimited capacity to action or his representative by law (guardian or trustee) would act on his behalf in the procedure. Only persons of legal age and capacity to act were able to request naturalization. Married women living with their husbands could only obtain Hungarian citizenship on the right of their husbands. A married woman could only acquire Hungarian citizenship if she lived separated, or the court had dissolved her marriage, or she was "separated from bed and board"²⁹, or she was widowed. A legitimate child could request naturalization on the right of his or her father, or on the right of the mother if she was widowed. A child could also be naturalized at the request of either the father or the mother, if he or she acted as the child's legally appointed guardian.

The issuance of a promise of admittance to the township was reserved to the powers of the autonomous rights of the village or the town, which could only be practiced under the general decree of the Minister of the Interior no. 44.967/920. Aspects of national interests also had to be taken into consideration.³⁰

²⁶ KORBULY, Imre: *ibid.* 139. Ministry of the Interior executive decree no. 584/1880. in.: FERENCZY, Ferenc: *ibid.* 163. According to the Austrian Civil Code of 1811, the following conditions had to be met for naturalization: legal capacity, no criminal record, proof of income, admittance to a township either concluded or in progress. Naturalization belonged to the competence of provincial authorities with the Minister of the Interior intervening in cases of disputed issues only. A certificate was issued of the naturalization and an oath had to be taken. Minor were either exempted from under the oath, or it was postponed until they would come of age. EÖT-TEVÉNYI, Nagy Olivér: *ibid.* 47.

²⁷ Such regulation also appears in the citizenship law of the United States of America, which causes problems more than once in naturalization cases. in.: GÖNCZI, Katalin: *A magyarok az amerikai Legfelsőbb Bíróság előtt* [Hungarians before the Supreme Court]. Budapest, 2000. 46–51., FERENCZY, Ferenc: *ibid.* 59–60.

²⁸ Official communication of the Ministry of Justice no. 26.538/1904. in.: FERENCZY, Ferenc: *ibid.* 164–165.

²⁹ Ministry of the Interior Resolution no. 3257/1886. in.: FERENCZY, Ferenc: *ibid.* 159–160. If their conjugal life was subsequently restored, then the husband's citizenship was also extended to his wife. . Official communication of the Ministry of Justice no. 52.280/1900 in: FERENCZY, Ferenc: *ibid.* 160–162.

³⁰ KUN, József: *Nép, nemzet, nemzetiség* [People, nation, nationality]. Budapest. 1908. 174–175., FERENCZY, Ferenc: *ibid.* 61.

The five years' domestic residence requirement had to have fully met. The existence of immovable property had to be evidence by way of an extract from the land registration, movable property by way of an official certificate, and the payment of taxes by way of an extract from the tax registry.³¹ Tax paid by a woman was taken into account for her husband, as was tax paid by the father for his child. Arrears in the payment of taxes were not necessarily a cause of refusal to the application. (The tax payment requirements set forth by the law, however, could not be met by paying the taxes in advance for five years.)

The simple legal fact of adoption, therefore, did not automatically result in the acquisition of Hungarian citizenship, but it did make it easier to meet the conditions.³²

The naturalization procedure was always initiated by way of an application. The mere satisfaction of the prescribed conditions did not automatically result in the acquisition of Hungarian citizenship; it only made it possible to acquire it.³³ It was the prerogative of the Minister of the Interior to decide who would be given the Hungarian citizen. Applicants would only become a Hungarian citizen when they took the oath of allegiance. A deed of naturalization was considered as evidence of the acquisition of citizenship if the date of naturalization was entered on the document by the competent authority. The oath of allegiance had to be taken within one year from the receipt of the writ issued by the authority; otherwise, the applicant's passive conduct caused the loss of the opportunity for becoming a Hungarian citizen. The citizen also had the right, however, to revoke the deed of naturalization in justified cases if the oath of allegiance was not yet taken.³⁴

Naturalization by royal diploma took place only in special and extraordinary cases. Persons could thus receive Hungarian citizenship who had outstanding achievements in the interest of the country, "who have become worthy of Hungarian citizenship in the service of the Hungarian people".³⁵ The Minister of the Interior proposed to the king who should receive such a diploma without the prospects of admittance to any local township or without having to meet the five years' residency requirement or inclusion in the tax registry. In such cases, Budapest was always entered as the place of residence, except if the person thus naturalized received admittance to some other township in the meantime. Even such persons had to take the oath of allegiance, however.³⁶

³¹ Ministry of Finance Decree no. 44.130/1881. in.: FERENCZY, Ferenc: *ibid.* 168–169.

³² BALOGH, Arthur: *ibid.* 91.

³³ FERENCZY, Ferenc: *ibid.* 62.

³⁴ Ministry of the Interior Decree no. 584/1880. in.: FERENCZY, Ferenc: *ibid.* 172., Ministry of the Interior Decree no. 29.212/1895. in.: *Ibid.* 174.

³⁵ FERENCZY, Ferenc: *ibid.* 63.

³⁶ FERDINÁNDY, Gejza: *ibid.* 242.

It must also be noted that neither simple nor extraordinary naturalization granted a title of nobility. A naturalized citizen could not be elected to the office of keeper of the crown and a person naturalized by deed could only become a member of the House of Representatives after ten years, or a member of the Upper House by way of the Parliament (Act 7 of 1885).³⁷

The annexes required by the law had to be attached to the application and certified. The applicant had to submit the documents to the highest official of the local authority according to his place of residence (the sub-prefect of the county or the mayor of the city).³⁸ This rule also applied if the applicant received a promise of admission from another township. The officials examined the application in terms of form and content, and then presented the documents, complete with justification, to the Minister of the Interior. If they found the application deficient in any respect, then they called upon the applicant to submit further documentation. If the Minister of the Interior considered the applicant as worthy of Hungarian citizenship, then he issued the deed of naturalization.³⁹ Otherwise, he rejected the application and notified the competent authority of his decision. The competent authority would then notify the decision to the applicant: if the decision was favorable, then the place and time for taking the oath of allegiance was given; otherwise, the documents submitted were returned along with the letter of rejection.⁴⁰ The wording of the oath of allegiance was the following: “I, N. N., swear by the living God (affirm) that I shall be faithful to His Imperial and Royal Majesty, the Apostolic King of Hungary, and to the Constitution of the countries of the Royal Crown, and shall allegiantly perform my obligations as a Hungarian citizen.”⁴¹ A documentary records was taken of the oath which was to be signed by the applicant, who subsequently received the deed of naturalization and his personal documents. The authorities had to notify the Minister of the Interior of the taking of the

³⁷ NAGY, Ernő: *ibid.* 111., MADARI, Edit, PARRAGI, Maria: *The New Act on Hungarian Nationality*. Acta Juridica Hungarica. 1993. 68., HARGITAI, József: *A magyar állampolgársági jog de lege lata (gondolatok néhány alapelvről)* [Hungarian citizenship law *de lege lata* (thoughts on some basic principles)]. Magyar Jog. 1993. 721.

³⁸ Ministry of the Interior official communication no. 65.268/1888. in.: FERENCZY Ferenc: *ibid.* 170.

³⁹ A certificate of Hungarian citizenship could also only be issued by the Hungarian Royal Minister of the Interior. Ministry of the Interior Decree no. 24.565/1887. in.: FERENCZY, Ferenc: *ibid.* 152. This was also underlined by the Ministry of the Interior’s general decree no 45.516 of 1878 stating that county, municipal and township authorities did not have the powers to issue such certificates. in.: *Ibid.* 152.

⁴⁰ FERENCZY, Ferenc: *ibid.* 64.

⁴¹ Ministry of the Interior Decree no. 584/1880 regulates the records to be made at the taking of the oath. in.: FERENCZY Ferenc: *ibid.* 172–173.

oath. The Minister by turn would notify the Prime Minister and the Royal Hungarian Bureau of Statistics.⁴²

People who had lived for a period of at least five uninterrupted years before the coming into force of the first citizenship law on the territory of the Hungarian Crown and were on the list of taxpayers in the registry of a township were also considered to be Hungarian citizens, provided that they did not notify the competent authority according to their place of residence that they wished to maintain their foreign citizenship.⁴³

Austrian citizens could only be naturalized in Hungary, like Hungarians in Austria, if they were first dismissed from Austrian or Hungarian citizenship, respectively, in accordance with the Treaty of 1870.⁴⁴

*Favored naturalization (re-naturalization)*⁴⁵

The main difference between favored naturalization and the previously described procedure was that the former could only be applied to originally Hungarian citizens, while naturalization was a procedure reserved for foreign citizens. Not all former Hungarian citizens could use this easier procedure. Those who were excluded from Hungarian citizenship by an authority's decision did not qualify. Such persons have seriously violated their obligations as citizens. Those who have lost their Hungarian citizenship by way of legitimization, and were therefore considered as foreigners on the basis of the citizenship of their fathers, also belonged to this circle.⁴⁶ A person could acquire a new citizenship both by way of naturalization and re-naturalization, but there was still a significant difference between the two situations, since in the latter case, only the legal ties had been broken "between the Hungarian state and its son who lost his Hungarian citizenship, yet the ethical ties were not broken".⁴⁷

Several groups could be established within the circle of those subject to favorable naturalization. A person who had lost his citizenship by way of dismissal or absence and did not obtain another citizenship could be re-naturalized as a citizen even if he did not return to the country in the meantime. Such a

⁴² KORBULY, Imre: *ibid.* 140., FERENCZY, Ferenc: *ibid.* 65., 174.

⁴³ FERDINÁNDY, Gejza: *ibid.* 239–242., NAGY, Ernő: *ibid.* 111–112.

⁴⁴ NAGY, Ernő: *ibid.* 110. A similar agreement was also in place between Hungary and Serbia (Act 30 of 1882).

⁴⁵ FERENCZY Ferenc argues that the word "re-naturalization" is not appropriate, since the person involved is not "regaining some old, lost right," but is acquiring a new right. "Citizenship by way of so-called re-naturalization is not *restitutio in integrum*, but a new citizen's right." He saw this reasoning justified by the taking of the oath and other, similar procedural rules. FERENCZY, Ferenc: *ibid.* 66., PONGRÁCZ, Jenő: *ibid.* 28–29.

⁴⁶ FERENCZY, Ferenc: *ibid.* 65.

⁴⁷ *Ibid.* 66.

person would be given admittance to his former township upon re-naturalization. If a person obtained a new citizenship, he could only be re-naturalized if he returned to the territory of the Hungary and a township promised to admit this person as a resident. In the latter case, the Minister of the Interior had no room for deliberation, unlike in the former situation.

Additional advantages were provided by the citizenship law to women and minors. A woman who had lost her citizenship not independently but by way of the dismissal or absence of her husband, or by way marriage to a foreigner, was given Hungarian citizenship, provided that her marriage had terminated and she had already initiated the procedure for admittance to a township. A minor, on the other hand, who had lost his citizenship by reason of his father's dismissal or absence was re-naturalized as a Hungarian citizen when either he became of legal age or his father died, provided that his admittance to a township was under way.⁴⁸

Documents proving that such a person had formerly been a Hungarian citizen had to be submitted with the application.⁴⁹ In all other respects the procedure was the same as in case of simple naturalization.⁵⁰

The ten year rule for becoming a member of the legislature did not apply to re-naturalized persons, except if they originally acquired their citizenship by naturalization not more than ten years before.⁵¹

Naturalization of re-settlers in large numbers

The above provisions applied to emigrants and their immediate family members, and did not take into consideration the returning of the descendants of Hungarians who had left the country several generations before. To fill in this gap, Act 4 of 1884 extended the provisions of the citizenship law relating to favored naturalization.⁵² The date when the applicant's forbears left the country could not be taken into consideration. The township to which the applicant was to belong to had to be established by the authority, and several applicants intending to settle in the same place could submit a joint application for naturalization.⁵³

⁴⁸ A child otherwise of legal age could not obtain citizenship by the right of his or her father. Ministry of the Interior Decree no. 1556/1887. in.: FERENCZY, Ferenc: *ibid.* 157., PONGRÁCZ, Jenő: *ibid.* 30–31.

⁴⁹ Such certificates had no temporal restrictions; however, if a person lost his or her citizenship due to ten years' of absence, then the certificate itself also became ineffective. It was considered as an authentic proof of citizenship until proved otherwise. Ministry of the Interior official communication no. 44.451/1900. in.: FERENCZY, Ferenc: *ibid.* 152.

⁵⁰ PONGRÁCZ, Jenő: *ibid.* 31–32., FERENCZY, Ferenc: *ibid.* 67.

⁵¹ NAGY, Ernő: *ibid.* 116.

⁵² FERENCZY, Ferenc: *ibid.* 68.

⁵³ The law made it possible for the Csángó [Hungarian-speaking native of Moldavia] Hungarians of Bukovina to re-settle in large numbers, "and was brought to existence by the recogni-

Legitimization

An illegitimate child born to a Hungarian man and a foreign citizen woman could acquire Hungarian citizenship by way of legitimization. The subsequent marriage of such a child's parents was to have the result on the child's citizenship as if he had been born in wedlock.⁵⁴ A naturalized father's citizenship did not extend to his legitimized children if they were already of legal age. In such a case, the children were only able to obtain Hungarian citizenship by way of ordinary naturalization. Legitimization was to have a retroactive force to the date of the child's birth.⁵⁵ The precise order of procedure was not defined by the law; therefore, subsequent marriage and royal legitimization had the same effect.⁵⁶

It can be observed that in subsequent citizenship laws less and less room was available for the state interference. One by one, the reasons used for the enforcement of the peculiar law principles of the age were removed from among the conditions.

The Loss of Hungarian Citizenship

Act 50 of 1879 lists five cases whereby Hungarian citizenship could be lost. These are the following: dismissal, authority's decisions, absence, legitimization and marriage.⁵⁷ This list of the law is also taxative. Hungarian citizenship could not be lost by way of resignation or the acquisition of foreign citizenship. A Hungarian citizen would keep his or her citizenship until losing it for any of the above-mentioned reasons, even if he or she became the citizen of another country in the meantime.

In 1884, the Hungarian Minister of the Interior sent an official communication to his Austrian counterpart on the issue of adoption under status law. According to Act 50 of 1879, citizenship could not be either acquired or lost by way of adoption.⁵⁸ In a case involving the adoption of a child of Hungarian

tion that these otherwise lost Hungarians should be saved for the Hungarian nation, and should be given every concession to facilitate their return. It is not impossible that this law will make good services in the future as well." FERENCZY, Ferenc: *ibid.* 68–69., Nagy, Ernő: *ibid.* 116., PONGRÁCZ, Jenő: *ibid.* 32.

⁵⁴ KORBULY, Imre: *ibid.* 138., KISTELEKI, Károly: *ibid.* 50., Ministry of the Interior Decree no. 23.319/1903. in.: FERENCZY, Ferenc: *ibid.* 158., NAGY Ernő: *ibid.* 109.

⁵⁵ Ministry of the Interior official communication no. 52.550/1903, Ministry of the Interior Decree no. 27.899/1904., in.: FERENCZY, Ferenc: *ibid.* 158–159.

⁵⁶ FERDINÁNDY, Gejza: *ibid.* 239.

⁵⁷ LADIK, Gusztáv: *ibid.* 11–12., KISTELEKI, Károly: Magyar állampolgárság a XX. században [Hungarian citizenship in the 20th century]. *Állam- és Jogtudomány*, 2000. 57–58.

⁵⁸ VIDOVIČ, Ernő: *Tudnivalók állampolgársági és illetőségi ügyekben* [Information on issues of citizenship and residence in a township]. Székesfehérvár, 1938. 4.

citizenship, the Minister of the Interior declared that this was not included among the reasons whereby citizenship would be lost. Therefore, he rejected the possibility that the Hungarian child assume his adoptive parents' Austrian citizenship by way of the act of adoption⁵⁹, which shows that the officials participating in the procedure strictly adhered to the ways of losing citizenship listed in the law.⁶⁰

Dismissal

The first case of the loss of citizenship was dismissal.⁶¹ This was also the most problematic way of losing one's citizenship. The law provided an opportunity to Hungarian citizens to renounce their citizenship and to break ties with the bonds of the Hungarian state. For dismissal to be valid, the will of the individual and of the state had to meet, whereby it was not sufficient for a citizen to unilaterally give up citizenship, as such statements had no legal effect; therefore, the consent of the state was also necessary for the validity of dismissal.⁶²

The precondition of dismissal was that the applicant had to have fulfilled all obligations toward the Hungarian state and not renounce citizenship with the intention of getting exempted from under these obligations.⁶³ It follows from the above that the procedure was always initiated at personal application, and only Hungarian citizens could be dismissed.⁶⁴

⁵⁹ Ministry of the Interior official communication no. 47.159 1884. BERÉNYI, Sándor – TARJÁN, Nándor: *ibid.* 4-5., PONGRÁCZ, Jenő: *ibid.* 18-19. This was not listed among the possible reasons for losing citizenship. BELEZNAI, József: *A magyar állampolgárságról* [On Hungarian citizenship]. Debrecen, 1941. 46.

⁶⁰ BERÉNYI, Sándor – TARJÁN, Nándor: *ibid.* 6. Yet another example given by the authors is that conversion to the Islamic faith would not allow the loss of Hungarian citizenship either.

⁶¹ Sections 21 to 30 of Act 50 of 1879 discuss the loss of Hungarian citizenship by way of an authority's decision together with dismissal, even though these two modes were completely different. VAJDA, János: *Ki marad magyar állampolgár? Ki veszíti el magyar állampolgárságát? Az új magyar állampolgársági törvény ismertetése* [Who will remain a Hungarian citizen? Who will lose his Hungarian citizenship? A description of the new Hungarian citizenship law]. Budapest, 1939. 6-9., BRÓDY, Ernő: *Ki a magyar állampolgár?* [Who is a Hungarian citizen?]. Budapest, 1938. 24., NÉMETHY, Imre: *Állampolgárság és községi illetőség a magyar jogban* [Citizenship and township residence in Hungarian law]. Budapest, 1938. 7-8., PEREGRINY, Géza – JACOBI, Roland: *Magyar állampolgárság, községi illetőség és idegenrendészet* [Hungarian citizenship, township residence and foreign registration]. Budapest, 1938. 27-29.

⁶² FERENCZY, Ferenc: *ibid.* 74-75.

⁶³ PONGRÁCZ, Jenő: *ibid.* 19.

⁶⁴ FERENCZY, Ferenc: *ibid.* 76., TAR, József: *ibid.* 20-21. Therefore, it had to be examined at the time applications were submitted whether the applicant was of Hungarian rights and why the termination of citizenship was necessary. The person to be dismissed had to submit proof of his Hungarian citizenship.

Before dismissal, the applicant had to have settled all obligations toward the state, of which military service was the most important. It was not impossible for persons in military service to receive an approval to their applications. Persons in regular, reserve and supplementary reserve service⁶⁵ could only be dismissed with the permission of the Minister of War. Persons of at least 17 years of age who were not under such obligations but have not yet been finally exempted from military service had to be dismissed only if the competent municipality certified that the objective of such persons in their application was not gaining defense obligations.⁶⁶

Those domestic citizens who left their service obligations before fulfilling a specific period of time were given a letter of discharge, and could request the termination of their citizenship without the need for any further permission. Persons who left the territory of the Austro-Hungarian Monarchy for the purpose of evading military service, or stayed outside of the borders during the time of recruitment committed were prosecuted. Pursuant to Section 45 of Act 6 of 1889, perpetrators could be punished by up to one year of imprisonment and a fine of one thousand Forints.

The discharge necessary for emigration before the fulfillment of service obligations was issued by the common Minister of War in case of the joint army and the navy, and by the Hungarian Minister of War in case of the Hungarian army. In case of regular conscripted servicemen, permission was only granted if the applicant's parents also emigrated together with him. Dismissal was to be regarded as valid if the person involved moved abroad during the one-year period with the intention of settling down there. If the settling down did not take place within the pre-determined time period, then the person was required to serve the remaining time of his military service.

No person in military service could be given a discharge in the time of war or mobilization. Because of the special public law status existing between Hungary and Austria, an exemption was made on the basis of reciprocity for those to whom the prospects of Austrian citizenship were held out. Such persons were discharged from the ties of the state if they otherwise met the general conditions.⁶⁷

According to Gejza Ferdinándy, Section 25 of Act 5 of 1890 on the Hungarian Army was drafted improperly, whereby "servicemen who are granted citizenship in another state of the Monarchy shall be transferred to a military

⁶⁵ The service obligations of these persons were regulated in Act 6 of 1889, in case of army servicemen in Act 5 of 1890, and the obligation for insurrection in Act 21 of 1886.

⁶⁶ According to the conscription law, military obligations started on the 21st birthday of the person involved and came to an end on December 31 of the year when he turned 23. BERÉNYI, Sándor – TARJÁN, Nándor: *ibid.* 78-79., PONGRÁCZ, Jenő: *ibid.* 20.

⁶⁷ BERÉNYI, Sándor – TARJÁN, Nándor: *ibid.* 71-73.

unit on the basis of his new place of residence with the maintenance of such person's service obligation. [This is erroneous, since] §such a person's military obligations are terminated together with his citizenship, and his military service according to the laws of his new country do not constitute a continuation of his interrupted military service in his former country, but is an obligation deriving out of his new citizenship, and therefore, his old service obligation cannot be maintained."⁶⁸ In his opinion, the correct text of the law should have read: "servicemen who are dismissed from the ties of the Hungarian state and who are granted citizenship in another state of the Monarchy shall, for the purpose of performing the military obligations according to their new country, be transferred, on the condition of reciprocity, to an appropriate unit of the imperial and royal Austrian Army at the request of the relevant imperial and royal Austrian military authority."⁶⁹

In an official communication, the Hungarian Minister of War informed the Hungarian Minister of the Interior⁷⁰ that there should be no obstacles to the dismissal of those who did not have Hungarian citizenship at the time of the drafting of people of his age and only obtained citizenship subsequently.⁷¹

Hungarian citizens had to provide proof of three conditions: that they have the capacity to act, or in case of minors, the consent of his father or guardian was obtained to the dismissal; that they have no unpaid public debt; that they are not under criminal procedure or under the execution of a court judgment.⁷²

According to the justification of the Minister, the latter two was important because Hungarian taxes could not be collected or the judgments of Hungarian courts enforced abroad.⁷³

Such termination of citizenship was also extended to the wife and children of a dismissed husband.⁷⁴ In case the wife and the children did not move out of the country, the law ensured that they were not stateless. The law separated their legal

⁶⁸ FERDINÁNDY, Gejza: *ibid.* 247.

⁶⁹ *Ibid.* 247., PONGRÁCZ, Jenő: *ibid.* 26.

⁷⁰ Ministry of War official communication no. 4946. in.: BERÉNYI, Sándor – TARJÁN, Nándor: *ibid.* 73.

⁷¹ *Ibid.* 73.

⁷² FERENCZY, Ferenc: *ibid.* 77., PONGRÁCZ, Jenő: *ibid.* 27–28., TAR, József: *ibid.* 21., STEIN, Artur: *Népszerű tájékoztató állampolgársági ügyekben* [Popular information in citizenship cases]. Budapest, 1947. 14., PEREGRINY, Géza – JACOBI, Roland: *ibid.* 28.

⁷³ *Ibid.* 77.

⁷⁴ VAJDA, János: *ibid.* 9., BRÓDY, Aladár – BÁN, Kálmán: *Állampolgárság és illetőség. A Magyarországon érvényben lévő jogszabályok ismertetése, különös tekintettel a belügyminiszeri és a közigazgatási bíróság legújabb gyakorlatára. Kérvényminták, díjak és illetékek betűsoros tárgymutatója* [Citizenship and residence. The description of the laws and regulations in effect in Hungary, with special attention to the recent practice of the Minister of the Interior and of the Administrative Courts. Samples of applications, fees and stamp duties in an alphabetical listing.]. Budapest, 1938. 19.

status from that of the head of the family, and provided that they are only dismissed if they leave the territory of the country together with the husband or father.⁷⁵

It was presumed, therefore, that the will of the head of the family coincides with the intentions of all other members of the family, who could, however, show the opposite by way of a passive behavior. Legal protection was not possible if the family had moved abroad previously.

Married women also had the opportunity to request dismissal on their own right. In such cases, the legal effects were very different in terms of other members of the family, since the dismissal only applied to the applicant herself. For the dismissal of her children, the consent of the father was also necessary.⁷⁶

Discontinuation of cohabitation was not an obstacle to the granting of dismissal. The legal capacity of a woman was not affected by whether or not she lived together with her husband. In an official communication, the Minister of Justice declared that spouses could have different citizenship as well.⁷⁷

A divorced or widowed woman could freely decide on her own person, but she needed the consent of the public guardianship authority in case of a child below the legal age. It was also necessary that children over the age of 12 explicitly request the termination of their citizenship. In exceptional cases there was also an opportunity for the termination of a child's citizenship in such a way that his or her mother and father was not dismissed. In such cases the consent of the father (or if he was not alive, then the consent of the mother) was necessary, which also had to be endorsed by the public guardianship authority. In case of orphans, the guardianship authority made the decision on its own. The dismissal of a mentally ill person could only be requested by the guardian appointed by the competent court.⁷⁸

The dismissal of a married woman could be refused if her husband had arrears of tax payment.⁷⁹ It is apparent from the decision of the Minister of the Interior⁸⁰ that tax registrations were interpreted in a rather broad meaning of

⁷⁵ Ministry of the Interior official communication no. 3810 of 19930. in.: BERÉNYI, Sándor – TARJÁN, Nándor: *ibid.* 79., PONGRÁCZ, Jenő: *ibid.* 28.

⁷⁶ CZEBE Jenő: *A magyar községi illetőségi jog és a magyar állampolgársági jog szabályai. (Tekintettel a kifejlődött joggyakorlatra s kiegészítve az elszakított területeken érvényben lévő állampolgársági rendelkezésekkel)* [Hungarian laws and regulations on township residence and Hungarian citizenship law (With a view to the legal practice emerged, and supplemented with an overview of the citizenship regulations in effect on the annexed territories)]. Budapest, 1938. 370., FERENCZY, Ferenc: *ibid.* 78.

⁷⁷ Ministry of the Justice official communication no. 11.531 of 1889. in.: BERÉNYI, Sándor – TARJÁN, Nándor: *ibid.* 76.

⁷⁸ FERENCZY, Ferenc: *ibid.* 79., PEREGRINY, Géza – JACOBI, Roland: *ibid.* 180-182.

⁷⁹ According to Act 44 of 1883 (on public taxes), Section 95, joint and several liability existed with regard to commercial taxes levied on the head of the family.

⁸⁰ Ministry of the Interior regulation no. 2320 of 1989. in.: BERÉNYI, Sándor – TARJÁN, Nándor: *ibid.* 77.

the word. For this reason, debts to the parish or other local religious community were also regarded as obstacles to dismissal until paid by the applicant. The Minister of the Interior called upon the competent sub-prefect to take measures in the interest of the payment of the arrears. If payment was effected, then the opportunity for re-submitting the case to the Minister of the Interior was given.⁸¹ According to the Minister, however, not all kinds of public debts were to be regarded as tax arrears. A debt in the expenses of caring for foundlings was not regarded as an obstacle to dismissal, since it was of private law nature. Similarly, arrears on the payment of fair and market district fees were not an obstacle, since these could not be considered as township or municipal taxes.⁸²

If the above requirements were fulfilled, a person could be dismissed from the ties of the Hungarian state. The deed of dismissal was always to be delivered to the applicant himself or herself. The significance of this laid in the fact that the applicant lost his or her citizenship upon receipt of this letter. It could happen, however, that the applicant either refused to take over the letter, or failed to receive it for any other reasons, and consequently, dismissal lost its validity. In extraordinary and exceptional cases, authorized attorneys could also receive the letter. In such cases, these attorneys had to undertake the responsibility that they shall deliver the deed, and then report the date of such receipt to the local authorities and to the Minister of the Interior.⁸³ In 1892 the Minister also issued an executive decree in connection with delivery⁸⁴, in which it was set down that the above authorization had to be given in a deed countersigned by an attorney-at-law or a notary public.⁸⁵

Dismissal became finally effective with the act of moving out. The law provided a period of one year for leaving the territory of the country, to be calculated from the day of receipt of the deed of dismissal. The person in question had the right to change his position, and no justification was necessary to be given. The rights and obligations of the dismissed person were suspended but not terminated in this period.⁸⁶ In case any of the obstacles set forth by the law emerged, the dismissal was considered as invalid. This provision had great sig-

⁸¹ Ibid. 77., CZEBE, Jenő: *ibid.* 1938. 369., PEREGRINY, Géza – JACOBI, Roland: *ibid.* 179.

⁸² Ministry of the Finance official communication no. 8387/91. in.: BERÉNYI, Sándor – TARJÁN, Nándor: *ibid.* 77-78., CZEBE, Jenő: *ibid.* 1938. 371., PEREGRINY, Géza – JACOBI, Roland: *ibid.* 179-180.

⁸³ FERENCZY, Ferenc: *ibid.* 80.

⁸⁴ Ministry of the Interior regulation no. 82.560/1892. in.: BERÉNYI, Sándor – TARJÁN, Nándor: *ibid.* 85-86.

⁸⁵ Ibid. 85-86., PONGRÁCZ, Jenő: *ibid.* 29-30., CZEBE, Jenő: *ibid.* 1938. 378-380.

⁸⁶ FERENCZY, Ferenc: *ibid.* 81.

nificance, since otherwise the dismissed person, as a non-Hungarian citizen, would have been exempt of his or her criminal liability.⁸⁷

The definition of this one-year period was justified, on the one hand, that an intention to emigrate that was not acted upon during such a period could not be taken seriously. On the other hand, the applicant became a quasi re-naturalized person at the elapse of this time period, since, pursuant to Section 48, aliens who did not maintain their own citizenship in a period of one year became Hungarian nationals.⁸⁸

Dismissal was usually requested by those citizens only who stayed outside the territory of the country before. For this reason, invalidity or dismissal due to the elapse of one year happened very rarely.⁸⁹

The above provisions applied for peacetime only.⁹⁰ War changed the provisions inasmuch that the monarch had the final word of decision.⁹¹

The application with detailed justification and supplementary documentation was to be addressed to the Minister of the Interior, but submitted to the highest official of the local municipality.⁹² Documents proving personal information (birth and marriage certificates), as well as proof of no public debt and of full legal capacity to act also had to be attached.⁹³ A fee of two Pengös had to be paid for the application, and an additional 30 Fillers for each sheet of attachments.⁹⁴

In the decree of the Minister of the Interior on the execution of the law⁹⁵ it was provided that the certificate issued by the officials had to indicate that the objective of the applicant is not exemption from military obligation and also to fact whether he intended to leave the country together with his family or by him-

⁸⁷ BERÉNYI, Sándor – TARJÁN, Nándor: *ibid.* 80-81., PONGRÁCZ, Jenő: *ibid.* 30.

⁸⁸ BERÉNYI, Sándor – TARJÁN, Nándor: *ibid.* 81.

⁸⁹ FERDINÁNDY, Géza: *ibid.* 244., PEREGRINY, Géza – JACOBI, Roland: *ibid.* 184-185.

⁹⁰ According to Section 21 of Act 50 of 1879, in the Hungarian and Fiume dismissal cases the Hungarian Minister of the Interior, while in case of applications received from Croatian, Slavonian and Dalmatian territories, the Croatian-Slavonian-Dalmatian Ban would be competent to decide.

⁹¹ CSIKY, Kálmán: *Magyar alkotmánytan és jogi ismeretek kézi könyve* [Hungarian constitutional and legal studies]. Budapest, 1907. 38.

⁹² Listed among the formal requirements of the application was the fact that it had to be submitted to the highest official of the municipality (sub-prefect, mayor) where the person in question had township residence. BERÉNYI, Sándor – TARJÁN, Nándor: *ibid.* 80., PEREGRINY, Géza – JACOBI, Roland: *ibid.* 185-186.

⁹³ FERENCZY, Ferenc: *ibid.* 83-85.

⁹⁴ PONGRÁCZ, Jenő: *ibid.* 23., BRÓDY, Aladár – BÁN, Kálmán: *ibid.* 21.

⁹⁵ Ministry of the Interior Regulation no. 584 of 1880 on the execution of Act 50 of 1879 on the acquisition and loss of Hungarian citizenship. in.: BERÉNYI, Sándor – TARJÁN, Nándor: *ibid.* 81-82.

self. In the resolution, the names of his dismissed wife and children also had to be indicated. At the time of delivery of the deed, the conditions that could invalidate the resolution had to be notified to the applicant. The date of delivery had to be reported to the Minister of the Interior, as was also the fact if the applicant did not leave the country within one year or moved to another domestic township.⁹⁶

This executive decree, however, still failed to answer some of the practical problems that emerged in the meantime, and therefore, it was amended in 1892.⁹⁷ This executive decree was drafted by the Ministry of the Interior in agreement with the Ministry of War and the Ministry of Finance.

Those Hungarian applicants who intended to emigrate to Austria, the German Empire or Serbia had to present an official promissory note for admission to citizenship in these states, which also had to be renewed if it expired in the meantime.

The tax certificate was to be issued by the competent Hungarian Royal Tax Office. The applicant also had to submit his military registry book issued by the competent military replacement center, or an authenticated copy of the military registration records, if the applicant or anyone in his family was of military age. The military replacement center examined the case preliminarily if the applicant was in the ranks of the army (or navy) at the time of application.

The tax for exemption from military service also had to be paid at the tax authorities, and the receipt attached to the application. The applications of persons that have exceeded the military age of 21 to 35 years were also sent to the financial department (tax inspectors). This was necessary as it frequently happened that individuals of military age were drafted not at the ordinary age as determined by Act 6 of 1889, but several years later. In such cases disqualification from military service or the obligation for the payment of the exemption tax could only be established later.

Applications submitted properly were to be immediately sent to the Minister of the Interior together with a report containing the opinion or proposal as to whether the applicant's request should be granted or not. Deficient applications were returned to the applicants.⁹⁸

The Minister of the Interior had to request the opinion of the Minister of War in all cases when the applicant was of military age. The common (imperial) Minister of War was only asked when the individual belonged to the ranks of the common army and Austria was not his destination. The opinion of the Minister of Finance was also requested if the issue of tax arrears came up.⁹⁹

⁹⁶ Ibid. 81-82.

⁹⁷ Ministry of the Interior Regulation no. 23.901/1892. in.: *ibid.* 82.

⁹⁸ Ibid. 82-83.

⁹⁹ FERDINÁNDY, Géjza: *ibid.* 243.

If the Minister of the Interior found the case to be in order, then he issued a deed of dismissal¹⁰⁰, which was then sent to the highest official of the competent municipality. Delivery took place subsequently.

In the course of the legislative process the principle was not accepted that the acquisition of a foreign citizenship would automatically terminate Hungarian citizenship, even though such a provision would have significantly simplified the administrative process. A separate act of dismissal from the ties of the Hungarian state would not have been necessary.

Further devaluing the importance of dismissal was the fact that the majority of countries did not request the termination of the former citizenship for their naturalization process.¹⁰¹ This led to a situation in which many people did not request dismissal.¹⁰²

The deed of dismissal, however, had the major advantage of certifying that the applicant has fulfilled all his obligations existing toward the state.¹⁰³

Absence

The concept of absence meant the residence of a Hungarian citizen beyond the borders of his home country.¹⁰⁴ The initial date of absence was the day on which the individual left the territory of the country. If he or she left with a passport, it was the date when his or her passport expired, or when he became of legal age (provided that he had not previously lost his citizenship by the right of

¹⁰⁰ Ibid. 243.

¹⁰¹ Sweden and Norway made the acquisition of citizenship dependent on dismissal. Certain German members states, including Württemberg on the basis of a decree from 1881, Lübeck in 1870, and Hamburg (Wilhelm CAHN: *Das Reichsgesetz über die Erwerbung und den Verlust der Reichs- und Staatsangehörigkeit vom 1. Juni. 1871*. Berlin, 1908. 66.) also acted similarly. It must be noted that the German citizenship act of 1870, however, did not set such conditions. Only few states (Russia, Luxemburg) demanded of their would-be citizens to certify the performance of their obligations, especially military ones, to their former home countries. The United States was satisfied with the resignation of the earlier citizenship by way of an oath. In Spain it was also accepted if one renounced citizenship. Special mention must be made of the Japanese regulation of 1899 whereby only such persons could be naturalized who were either stateless or who have lost their citizenship as a consequence of the acquisition of Japanese citizenship. KIRÁLYFI, Árpád: *A magyar állampolgárság kizárólagossága* [The exclusivity of Hungarian citizenship]. Budapest, 1903. 108-109.

¹⁰² THIRRING, Gusztáv: *A magyarországi kivándorlás és a külföldi magyarság* [Hungarian emigration and Hungarians abroad]. Budapest, 1904. 94.

¹⁰³ CZEBE, Jenő: *ibid.* 24-30., KIRÁLYFI, Árpád: *ibid.* 88.

¹⁰⁴ The German citizenship law of 1870 also used this case of termination. The evaluation of foreign residence essential to the question of absence, however, was very complicated, since the overseas territories would only be regarded as domestic land from 1888. Max BAHRFELDT: *Der Verlust der Staatsangehörigkeit durch Naturalization und Aufenthalt im Auslande nach geltendem deutschem und französischem Staatsrechte*. Breslau, 1903. 64.

his father), or when the period of guardianship or trusteeship came to an end.¹⁰⁵ The last paragraph of Section 48 of the Act clearly states that the period of ten years' absence is to be calculated from the date when the law comes into effect. It was only after this period of ten years that a person could lose his Hungarian citizenship by reason of absence.¹⁰⁶ It must be noted, however, that only such persons could lose their citizenship this way who had no connections with the Hungarian state in this period of time.

According to Act 50 of 1879, only such persons could lose their citizenship this way that stayed outside the territory of the Hungarian Crown other than on commission of the Hungarian government or the common Austrian-Hungarian Ministers for an uninterrupted period of ten years.¹⁰⁷ Hungarian citizens with the legal capacity to act who had no obligations outstanding toward the state and against whom there was no procedure pending before Hungarian authorities would lose their citizenship this way. Accordingly, no minors or persons under guardianship of trusteeship could lose their citizenship on their own right.

Any measure taken in the interest of maintaining citizenship would prevent loss of citizenship by absence. This could happen by way of the person at the time of his departure or any time before the expiration of the ten years reporting to the highest official of the municipality competent on the basis of his place of residence (sub-prefect or mayor of a municipality town) that he wished to maintain his Hungarian citizenship. Giving such notice would interrupt the period of absence, and the ten-year period was to be restarted. Any visit to Hungary, for however short a time, would also interrupt the above period. Similarly, traveling across the territory of the country, even if it was not with the intention of the individual, would have the same consequences.¹⁰⁸

If the person involved requested a new passport, or received a residence permit from any Austrian-Hungarian consular office, or his name was entered in the register of the consular community, then these acts were also regarded as acts of maintenance under the law.¹⁰⁹ Those receiving benefits from the treasury

¹⁰⁵ FERENCZY, Ferenc: *ibid.* 89-90.

¹⁰⁶ NAGY, Ernő: *ibid.* 114., VAJDA, János: *ibid.* 12-17., PEREGRINY, Géza – JACOBI, Roland: *ibid.* 191-193. This is how Lajos Kossuth also lost his Hungarian citizenship. BÉNYEI, Miklós: *Kossuth Lajos és Debrecen* [Lajos Kossuth and the city of Debrecen]. Debrecen, 2003. 201-205.

¹⁰⁷ ESSER, Károly: *Magyar honos vagyok-e? (Az illetőségi bizonyítvány és állampolgársági bizonyítvány megszerzésének módja.)* [Am I a Hungarian citizen? (The way of obtaining a residence certificate and a citizenship certificate)]. Árpádföld, 1938. 11., BALOGH, Arthur: *ibid.* 92., PONGRÁCZ, Jenő: *ibid.* 31-33., BRÓDY, Ernő: *ibid.* 24., TAR, József: *ibid.* 24-25., CZEBE, Jenő: *ibid.* 1938. 384-387., BRÓDY, Aladár – BÁN, Kálmán: *ibid.* 21-23.

¹⁰⁸ VAJDA, János: *ibid.* 13., PEREGRINY, Géza – JACOBI, Roland: *ibid.* 189-190.

¹⁰⁹ Sephan EGYED: *Das Staatsangehörigkeitsrecht des Königreiches Ungarn*. Budapest, 1933. 191., CSIKY, Kálmán: *ibid.* 142., NÉMETHY, Imre: *ibid.* 8-12.

outside the borders of the country were regarded as being on official commission. A list was to be maintained of those who reported that they wished to maintain their citizenship. The list was to be presented to the Minister of the Interior.¹¹⁰

Due to the mere existence of the institution of absence, several persons lost their citizenship who never intended to. It is true that the law provided opportunities for preventing the loss of citizenship in the ways described above, but practical experiences showed that few Hungarian citizens living abroad used these opportunities. This followed partly from their lack of information, and partly from the fact that the consular offices were located far from their places of residence.¹¹¹ Many people failed to perform the acts that could have interrupted the period of absence, and therefore, loss of citizenship by reason of absence had the negative consequence that those “who were in economic and cultural relationship with their mother country, and who therefore, despite their physical absence, represented valuable assets for the Hungarian state, were, against their will, deprived of their Hungarian citizenship together with their descendants, which, in addition to the significant proportions of Hungarian emigration, was a further serious contribution to the loss of a sizable contingent of our population.”¹¹²

A person could only lose his or her citizenship by reason of absence if the person had no commission by the state, received no benefits from the state treasury or other public funds (pensions, national assistance, etc.), had no procedure pending against him or her, was not of military age, his or her child did not come of military age in the meantime, and was not registered for the purposes of the payment of military exemption tax. If any of the above circumstances occurred, this would interrupt the continuity of the ten years, and another ten year period started that had to expire for the fact of absence to be certified.¹¹³

It did not count in the period of absence, however, if a person was outside of the countries of the Central Powers during the war. This period was to be regarded as if it did not happen. Captivity as a prisoner of war also was not calculated as adding to this period. The time spent by a person abroad before the coming into effect of the first citizenship law also did not count, as all those who spent the above-mentioned uninterrupted ten years' period abroad could

¹¹⁰ Ministry of the Interior decree no. 584/1880. in.: FERENCZY Ferenc: *ibid.* 186.

¹¹¹ Királyfi Árpád mentions as an example the Hungarian emigrants living on Canadian farms, who had to report in such cases at the consular office of Montreal, several days of travel away. KIRÁLYFI, Árpád: *ibid.* 89.

¹¹² *Ibid.* 89.

¹¹³ KORBULY, Imre: *ibid.* 142.

lose their citizenship by reason of absence after January 8, 1890 at the earliest, unless they maintained it by one of the ways described above.

The loss of Hungarian citizenship by reason of absence also extended to the cohabiting wife of an absent husband, as well as all minor children under the custody of the father.¹¹⁴ In case the wife and the children did not follow the husband or father and remained within the territory of Hungary instead, they would keep their citizenship independent of the father. A woman who lost her citizenship by reason of the dismissal or absence of her husband or by way of marriage to a foreigner, and subsequently divorced or widowed, and was admitted to a township community or the prospects of such admission were held out, could be re-admitted to citizenship at her request.

A minor who lost his or her Hungarian citizenship by reason of the dismissal or absence of the father, could also be readmitted as a Hungarian citizen upon the death of his or her father or when reaching the legal age, provided that the issue of township community residence was earlier settled.¹¹⁵ The consent of the guardian had to be obtained as well. Special attention had to be devoted to orphaned children below the legal age, since the provisions of Section 31 in Act 50 of 1879 did not apply to them, as the institution of absence could only be applied from the time of coming of age.¹¹⁶

The elapse of the ten-year period could not be taken into consideration in case of persons under guardianship or trusteeship who resided abroad until they regained their legal capacity of action. The absence of legal capacity to act, however, could be substituted by the consent of their legal representatives. For the dismissal of a person under guardianship or trusteeship, the consent of the guardian or the trustee was necessary, which also had to be endorsed by the guardianship authorities. It also clearly follows from this that if a person had no capacity to act, then he also could not obtain citizenship rights independently.¹¹⁷ The termination of the individual's citizenship in such cases, unlike in all other cases,¹¹⁸ was the result of not so much the will of the individual, but of the passing of time.

¹¹⁴ Stephan EGYED: *ibid.* 191., VAJDA, János: *ibid.* 14-15., CZEBE, Jenő: *ibid.* 1938. 395., PEREGRINY, Géza – JACOBI, Roland: *ibid.* 196.

¹¹⁵ Explanation of township residence: This institution is introduced in Act 58 of 1871. Section 6 of the above Act provides that "each citizen shall be a resident of one of the townships." Beyond this, township residence has no impact on citizenship law. Act 50 of 1879 provided that this institution be one of the conditions of naturalization, since all Hungarian citizens had to be residents of a township.

¹¹⁶ Ministry of the Interior regulation no. 10.804/1890. in.: FERENCZY, Ferenc *ibid.* 188., Ministry of the Interior regulation no. 13.459/1894. in.: FERENCY, Ferenc: *ibid.* 188-189.

¹¹⁷ TAR, József: *ibid.* 25.

¹¹⁸ Contemporary Austrian citizenship law also regulated the cases of the loss of citizenship in a similar way. Emanuel MILNER: *ibid.* 105.

The loss of citizenship could be established *ex officio* or at the request of the individual.¹¹⁹ The Minister of the Interior had the competence to make a decision, but in effect he did not terminate citizenship, just declared that it was not longer valid. This is how it happened that the loss of citizenship was frequently established after 20 or 30 years. The loss of citizenship happened not at the date of the resolution but at the expiry of the predetermined period of time.

The Minister of the Interior issued a general decree in connection with the procedure.¹²⁰ The effect of the declaratory resolution was completely independent of acknowledgement by the interested party, from the delivery of these documents and attachments. This document was to be entered in the list of dismissal by the ministry officials.¹²¹ If the applicant subsequently based his application for naturalization on the fact that he had lost his Hungarian citizenship by reason of absence, he could request the restoration of his citizenship by way of a favorable re-naturalization procedure.¹²² According to the law, a person who lost his or her citizenship by reason of absence and acquired no other citizenship in the meantime, could regain his Hungarian citizenship under the above procedure by returning to Hungary. A person who was admitted to a domestic township upon his return also had to be readmitted as a Hungarian citizen.

Legitimization

A child born out of wedlock to a foreign father and Hungarian citizen mother who was legitimized according to the law of the country of the father's origin would lose his or her Hungarian citizenship without any special procedure.

There were some cases, however, when a child did not lose his or her Hungarian citizenship despite legitimization: if he or she acquired no citizenship by way of the legitimization; or if he did acquire a citizenship, but continued to live in the territory of the Hungarian state after the legitimization.¹²³

¹¹⁹ FERENCZY, Ferenc: *ibid.* 90.

¹²⁰ Ministry of the Interior official communication no. 52.273/1897. in.: *ibid.* 186-187.

¹²¹ Ministry of the Interior regulation no. 83.303/1895. in.: *ibid.* 187.

¹²² BAJÁKI, Veronika: *Magyar állampolgárság – kettős állampolgárság* [Hungarian citizenship – dual citizenship]. Budapest, 1973. 124., SÖMJÉN, László – SZITAS, Jenő – KISS, Miklós: *Magyar állampolgársági jog. (A magyar állampolgárságról szóló 1948:LX. Törvénycikk és a községi illetőség megszűnéséről szóló 1948:LXI. Törvénycikk a kapcsolatos jogszabályokkal.)* Hungarian citizenship law. Budapest, 1949. 116-117. According to the German regulation of 1870, those who lost their citizenship due to absence and obtained no other citizenship could request the maintenance of their former citizenship by way of re-naturalization. Max BAHR-FELDT: *ibid.* 37.

¹²³ FERENCZY, Ferenc: *ibid.* 85., NÉMETHY, Imre: *ibid.* 7-8., TAR, József: *ibid.* 25., CZEBE, Jenő: *ibid.* 1938. 395-396.

Of course a child born to a foreign woman could also acquire Hungarian citizenship this way. This reciprocity was not fully consistent, because in this case no separate act was necessary. By contrast, in the case described above, the territory of the country had to be left and the citizenship of the father acquired.¹²⁴

Marriage

Marriage also had similar consequences.¹²⁵ A Hungarian woman who married a foreign man lost her Hungarian citizenship at the moment of her wedding. Citizenship acquired by way of marriage, however, was not lost even if she was subsequently widowed or divorced.¹²⁶

Of course, only validly concluded marriages would have such legal consequences, since invalid (void or contestable) marriages were only valid until a final court ruling pronounced them invalid.

The law was not clear with respect to what would happen if a Hungarian woman married a foreigner, and then stayed in Hungary either alone or with her husband. In case of legitimization, the fact of leaving the country was specifically mentioned in the text of the law; however, it is not mentioned here, which leads us to the conclusion that marriage to a foreigner would deprive a woman of her Hungarian citizenship even if she did not leave the country. This was also true the other way round. The real problem arose when she was trying to get out of wedlock. She could only file for divorce in Hungary in such cases as any other foreign citizen. A rescissory act, on the other hand, was only possible if the marriage was concluded in Hungary and she did not subsequently follow her husband abroad. The situation was even more complicated if she became the citizen of a state that did not recognize the institution of divorce.¹²⁷

Our marriage law at the time only allowed a Hungarian woman to seek remedies for her grievances at a Hungarian court if there were reasons of invalidity, the marriage was concluded in Hungary, and she lived within the territory of the country. These three conditions had to be met at the same time: if even one was absent, she was not able to assert her case at Hungarian courts. In most situations, these cases only reached the courts if the woman was re-naturalized

¹²⁴ Ministry of the Interior regulation no. 26.855 of 1896. in.: BERÉNYI, Sándor – TARJÁN, Nándor: *ibid.* 108-109., PONGRÁCZ, Jenő: *ibid.* 33., KÁLMÁN, Ödön: *Mit kell a magyar állampolgárságról tudni?* (What should be known about Hungarian citizenship?) Miskolc, 1938. 9., BRÓDY, Ernő: *ibid.* 25., PEREGRINY, Géza – JACOBI, Roland: *ibid.* 196., BRÓDY, Aladár – BÁN, Kálmán: *ibid.* 23.

¹²⁵ Act 50 of 1879, Section 34-35., CSIKY, Kálmán: *ibid.* 38.

¹²⁶ FERENCZY, Ferenc: *ibid.* 86., TAR, József: *ibid.* 25., CZEBE, Jenő: *ibid.* 1938. 396-397., PEREGRINY, Géza – JACOBI, Roland: *ibid.* 197., BRÓDY, Aladár – BÁN, Kálmán: *ibid.* 23.

¹²⁷ BERÉNYI, Sándor – TARJÁN, Nándor: *ibid.* 109-111.

first. This, however, was not an easy task either, since the pre-condition of re-naturalization in this case was to get divorced. The most fundamental condition was nevertheless to be “separated from bed and board.”¹²⁸

Authority's decision (expulsion)

The last case of losing citizenship was by way of an authority's decision. The Hungarian state did not tolerate if an individual was working against her interests. This was regarded as a gross violation of allegiance to the state. Naturally, the fact that somebody worked in the service of another state was not sufficient grounds for expulsion.¹²⁹ All states, including Austria, would be considered such foreign states. Because of the dual monarchy, however, this provision of law was not applied in connection with Austria.¹³⁰ It was also a necessary condition that the individual's activity be directed against the Hungarian state.

After the Minister of the Interior established the fact of the violation, the individual concerned was called upon to resign his service by a certain deadline.¹³¹ If he complied with this request, then the loss of citizenship could not be declared by way of authority's decision. The termination of citizenship was always pronounced ex officio, unlike in the case of dismissal, where the procedure was initiated at the request of the applicant. The authority's decision simply declared the termination of an individual's citizenship, which fact would then also be notified to the Prime Minister. Such decision could be made by the Hungarian Royal Minister of the Interior or by the Ban of Croatia and Slavonia. Citizenship could not be lost in any other way than defined in the law; in other words, expulsion could be used neither as a penalty nor in case of resignation.

The executive decree of 1880 also affected this way of losing citizenship, inasmuch that any case that could be grounds for expulsion had to be reported to the Minister of the Interior.¹³²

Similarly to absence, the authorities' decision made it possible for a Hungarian citizen to lose his or her national status without becoming the citizen of another state. This way, loss of citizenship could easily become a punitive sanction, and this contradicted with the international principle that nobody should lose his or her citizenship by punishment.¹³³

¹²⁸ Ibid. 87., PONGRÁCZ, Jenő: ibid. 33., BRÓDY, Ernő: ibid. 25., NÉMETHY, Imre: ibid. 7-8.

¹²⁹ FERENCZY, Ferenc: ibid. 91-92.

¹³⁰ BERÉNYI, Sándor – TARJÁN, Nándor: ibid. 87.

¹³¹ NÉMETHY, Imre: ibid. 8-12., TAR, József: ibid. 21., CZEBE, Jenő: ibid. 1938. 383-384., PEREGRINY, Géza – JACOBI, Roland: ibid. 186-187., BRÓDY, Aladár – Bán, Kálmán: ibid. 21.

¹³² BERÉNYI, Sándor – TARJÁN, Nándor: ibid. 87-88.

¹³³ KIRÁLYFI, Árpád: ibid. 90-71.

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Rezime

Mađarsko državljanstvo je prvi put zakonski regulisano 1879. godine, u skladu sa tadašnjim ustavnim reformama i pravnom praksom. Uprkos nekim nedostacima zakona, on je ostao temelj mađarskog zakonodavstva o državljanstvu, pošto je u svojim odredbama predvideo slučajeve sticanja i gubitka državljanstva. Zakon sadrži detaljne odredbe o tome kako se pravni odnosi između građanina (državljana) i države, mogu uspostaviti i prekinuti. Cilj zakona bio je da uspostavi jasna i transparentna pravila o državljanstvu.

Zakon o državljanstvu može se smatrati kao pravni akt koji je bio sposoban da izdrži ispit vremena, pošto je ostao na snazi, uz neznatne izmene, sve do 1948. godine. Prvi takav amandman bio je Zakonski članak 4 od 1886. godine o renaturalizaciji ljudi koji su se ponovo naseljavali u dosta velikom broju, a zatim ga je pratio Zakonski članak 17 od 1922. godine, vezan za nastale promene u statusu državljana nakon potpisivanja *Trijanonskog sporazuma*. Sledeća značajna izmena uneta je u Zakonski članak 13 od 1939. godine, koja je predvidela da bi sva lica, koja su optirala za državljanstvo u drugim državama, automatski izgubila svoje mađarsko državljanstvo.

U kasnijim zakonima o državljanstvu (Zakonski članak 60 od 1948, Zakonski članak 5 od 1957, Zakonski članak 55 od 1993), unete su značajne izmene i na planu sticanja i na planu gubitka državljanstva. U svim ovim aktima veće mogućnosti su date individualnoj volji, a manje prostora je ostavljeno intervenciji države.

Ključne reči: Mađarska, državljanstvo, Trijanonski sporazum, prvi mađarski zakon o državljanstvu